

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

TRICORE, INC.,  
Plaintiff,

v.

SAFECO INSURANCE COMPANY OF  
AMERICA, and R.P. IANNUCCILLO &  
SONS CONSTRUCTION CO.,  
Defendants.

CIVIL ACTION NO. 04-12393-JGD

PLAINTIFF'S OPPOSITION TO R.P. IANNUCCILLO & SONS CONSTRUCTION CO.'S  
MOTION FOR LEAVE TO FILE AMENDED CROSSCLAIM

Plaintiff, Tricore, Inc. ("Tricore") hereby opposes the motion (the "Motion") of R.P. Iannuccillo & Son's Construction Co. ("RPI") for Leave to File Amended Crossclaim against Safeco Insurance Company of America. In so opposing, Tricore refers the Court to the oppositions to the Motion filed by Safeco Insurance Company of America<sup>1</sup> on February 2, 2006, and February 21, 2006, and states that it concurs with the statements of fact and legal analysis therein.<sup>2</sup> In particular, Tricore emphasizes that RPI's untimely request to amend its crossclaim in order to assert entirely new theories of liability works a substantial prejudice on the parties' ability to resolve this matter, or else proceed promptly to trial. As the plaintiff in this action, and having already advanced hundreds of thousands of dollars to remedy RPI's defective work, Tricore is the party most prejudiced by any delay in this proceeding.

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<sup>1</sup> As repeatedly noted in the pleadings filed in this action, Safeco Insurance Company of America is a dual-defendant in this action, represented by separate counsel, each of which has filed an opposition to RPI's Motion.

<sup>2</sup> Excepting, however, whether there was an enforceable settlement agreement reached between Safeco and Tricore as a result of the mediation with the Honorable Charles B. Swartwood, III on July 19, 2005, which is the subject of a motion filed by Safeco and for which an evidentiary hearing is currently scheduled to be held before this Court on March 2, 2006.

The Plaintiff,  
Tricore, Inc.,  
By its attorneys,

/s/ Edward D. Kutchin  
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CERTIFICATE OF SERVICE

I hereby certify that I have served the within document, by mailing a copy thereof, postage prepaid, to:

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Dated: February 21, 2006

/s/ Kerry R. Northup  
Kerry R. Northup